

**ACLU OF RI POSITION: AMEND**

**TESTIMONY ON 24-H 7738,  
AN ACT RELATING TO HEALTH AND SAFETY –  
LICENSING OF MASSAGE THERAPISTS  
March 7, 2024**

Though we have no position on the overall intention of this legislation, which relocates the chapter concerning massage therapy licensure, and though we recognize that our comments concern language which is currently Rhode Island state statute, we believe that the introduction of this legislation additionally provides the opportunity to make several other amendments to this law to ensure appropriate due process considerations. We encourage the following proposed changes.

- As the General Assembly acknowledged over three years ago when it passed Fair Chance Licensing legislation, the preclusion from licensure that a criminal record can have – especially those records which are outdated or irrelevant to the position being sought – can inappropriately bar otherwise qualified individuals from seeking or obtaining occupational and professional licenses. The legislation passed in 2020, now codified at R.I.G.L. §28-5.1-14, ensures that an individual cannot be disqualified from an occupation solely or in part because of their criminal record unless the crime relates *directly* to the occupation being sought. Such protections are critical to ensure that cycles of discrimination are not being perpetuated against ex-offenders who are otherwise eminently qualified for their chosen professions.

With the largescale changes that this proposed bill is making, we further believe that this legislation should be amended to include a reference to the Fair Chance Licensing statute to ensure that the licensure application process mirrors the requirements of this critical law.

This legislation, for example, provides a process for the review of the results of a national criminal record check which does not include many of the central provisions of the Fair Chance Licensing law, including the ability for an individual to appeal the decision of licensure and provide evidence of rehabilitation for any criminal record found to be potentially disqualifying. (page 16, lines 16-28) In another section, “disqualifying information” is described as offenses “including but not limited to” those contained in a number of chapters, and includes irrelevant offenses such as “felony banking law violations.” (page 16, lines 29-30) In accordance with Fair Chance Licensing, this list of disqualifying information should be narrower in scope and specify a lookback period, so that applicants are not needlessly barred from licensure based on old and unrelated criminal records. Overall, this legislation should take this opportunity to comprehensively

incorporate the Fair Chance Licensing law and ensure that no individual is being denied a licensure in violation of this other state statute.

- In line with our above comments on the Fair Chance Licensing Act, we urge that this legislation change “shall” to “may” to better center due process protections. (page 18, line 26)
- This legislation additionally transfers language from the current statute which addresses procedures for the suspension and revocation of licenses, and may “pending an investigation and hearing, suspend, for a period not exceeding ninety (90) days, any license issued under the authority of this chapter and may, after due notice and hearing, revoke the license...” (page 19, lines 31-33) This ninety day period of suspension strikes us as far too long and inconsistent with due process protections, especially because we find that this language is unclear as to whether the referenced “due notice and hearing” occurs within this ninety day suspension or only once the ninety day suspension has concluded.<sup>1</sup>
- Finally, this language carries over penalties from the current statute which make the practicing of massage therapy without a license a misdemeanor, and the knowing employment of individuals who are not licensed as a massage therapist a misdemeanor. In the past, this criminal offense has been used to for “charge stacking” individuals who are also charged under the state’s laws banning commercial sexual activity. We believe this charge stacking should be prohibited and the penalties in this bill be limited to individuals who have sought to evade the educational and other requirements of the statute.

Thank you for your consideration of our comments.

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<sup>1</sup> We note similar concerns regarding the language on page 15, lines 11-19 which additionally references a ninety day suspension period and a requirement for “due notice and hearing.”